

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Lewis Analyst: Kristina E. North Bill Number: SB 1948  
Related Bills: See legislative history Telephone: 845-6978 Amended Date: April 26, 2000  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Employer Public School or Vocational Institution Math or Science Teachers' Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal income Tax Law (PITL) and the Bank and Corporation Tax Law (B&TCL), this bill would authorize a credit to taxpayers equal to 50% of the qualified expenses paid or incurred during the taxable or income year in connection with lending a qualified employee to a public high school, community college or vocational institution for the purpose of teaching math or science.

### SUMMARY OF AMENDMENT

The April 26, 2000, amendment deleted a preschool tuition credit provision and added the employer credit discussed in this analysis.

### EFFECTIVE DATE

The credit would be effective immediately and apply to taxable and income years beginning on or after January 1, 2001, and before January 1, 2005.

### LEGISLATIVE HISTORY

**AB 1713** (1998 - Cunneen) and **AB 81** (1999 - Cunneen/Alquist) contained language essentially identical to the credit proposed in this bill. Also, they would have provided a credit equal to 50% of qualified expenses paid or incurred during a taxable or income year in connection with allowing a public school teacher to attend an employer-sponsored education class by using an open enrollment space. AB 1713 was held in Assembly Appropriations while AB 81 failed to pass out of the first house by January 31 of the session's second year.

#### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

#### Department Director

#### Date

Alan Hunter for G.H.G.

6/1/00

### **SPECIFIC FINDINGS**

**Existing state and federal laws** allow a tax deduction for business expenses, including employee salaries. They also allow a deduction for charitable contributions.

**Existing state and federal laws** provide various tax credits that are designed to provide tax relief for taxpayers who must incur certain expenses (e.g., child and dependent care credit) or to influence behavior, including business practices and decisions (e.g., research credits). However, state and federal laws do not currently allow a credit for lending an employee to a public school to teach.

**Existing state law** provides general rules that apply to all tax credits, unless the individual credit provision specifies otherwise, such as rules on the division of credits between multiple taxpayers, a husband and wife, or partners.

**Existing state law** provides hiring credits based on qualified wages paid to specified employees of businesses within various economic development areas. Although other limitations and restrictions may apply, qualified wages for these hiring credits cannot exceed 150% of minimum wage (which currently equates to \$8.63/hour).

**Existing state law** provides that an "eminence credential" may be issued, upon the recommendation of a school district's governing board, by the Commission for Teacher Preparation and Licensing to any person achieving **prominence** in a subject area taught or service practiced in California public schools. This credential authorizes teaching or the performance of services in the public schools in the subject or subject area or service and at the level(s) approved by the Commission.

Under the PITL and the B&CTL, **this bill** would allow an employer to claim a credit equal to 50% of the qualified expenses paid or incurred during the taxable or income year in connection with lending a qualified employee to a "public school," as defined or vocational institution for the purpose of teaching math or science.

**This credit** would define "qualified expenses" as those paid or incurred in connection with lending employees located in this state to a public school located in this state or to a vocational institution for the purpose of teaching math or science, including wages paid for teaching or preparation time.

**This credit** would define "qualified employee" as an employee whose employment specialty includes math or science. This credit further requires that a qualified employee who teaches at the high school level must have been issued, or is eligible for the issuance of, an eminence credential as defined in the Education Code.

**This credit** would define "public school" as any high school in this state that is part of a public school district or community college that is part of the California Community College system.

The school would be required to certify the employee's teaching by issuing to the taxpayer a service record containing the employee's name, dates of teaching service, number of teaching hours, and a verification signature from the school's authorized agent or designee.

**This credit** would be in lieu of a deduction for the amount of any expenses for which this credit is allowed.

**The credit** would not be allowed with respect to a high school unless the employing school district certifies that the employee has filled a vacant teaching position for which no certified high school teacher was available.

Any allowable credit amount that exceeded tax liability would be carried over until exhausted.

### **Implementation Considerations**

Department staff has identified the following issues.

- ◆ Definition is needed for "vocational institution" for the department to implement this credit since it is unclear whether "public" applies to vocational institution. In addition, the bill does not require the vocational institution to be in this state.
- ◆ Wages paid for both teaching and "preparation time" qualify for this credit, but it is unclear what constitutes "preparation time." Teaching time must be certified by the public school or vocational institution. "Preparation time" need not be certified. The lack of definition of "preparation time," together with the lack of any method to verify this time, would make it impossible to audit wages paid for "preparation time."
- ◆ Further definition is needed as to which items would constitute "qualified expenses" (i.e., direct/indirect wages for classroom personnel, teaching supplies, class materials, equipment, etc.).
- ◆ A school must certify certain items for the credit to be allowed. Further language should be added to this provision to include verification from a high school that the employee has or is eligible for issuance of an eminence credential. Verification also should be required from the school district that the teaching position was vacant. The taxpayer should be required to provide these certifications to the department upon request.
- ◆ Credits are typically used within eight years of being earned. Since this credit does not have a carryover limit, the department would be required to retain the credit carryover on the tax forms and instructions indefinitely.

Department staff is available to assist the author in resolving these and any other issues.

### **Technical Considerations**

The requirements regarding certification that the employee is filling a vacant position should be located within the same subdivision as the other certification requirements.

## **FISCAL IMPACT**

### **Departmental Costs**

Until the implementation considerations addressed in this analysis are resolved, the department's costs to administer the bill are difficult to determine. However, once the considerations are resolved, the department's costs are expected to be minor.

### **Tax Revenue Estimate**

Based on data and assumptions discussed below, revenue losses from this bill are projected to be as follows:

Estimated Revenue Impact of SB 1948 As Amended April 26, 2000 Effective After 12/31/00 (In \$Millions)			
Fiscal Years	2000/2001	2001/2002	2002/2003
Revenue Impact (Rounded)	Negligible*	-\$1	-\$1

\*Losses lower than \$50,000

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

### **Tax Revenue Discussion**

Revenue losses would depend on the number of qualified employees loaned to California public high schools, community colleges, or vocational institutions for teaching math or science classes, the amount of total qualified expenses incurred by employers, and their respective income tax liabilities. This estimate was based on available information pertaining to math and science teachers in California public high schools and community colleges.

- According to the California Department of Education, the total number of math and science teachers in California public high schools was nearly 26,800 in full-time equivalent (FTE) during school year 1997/1998. The number of these teachers for grades 9-12 was estimated at 30% (more than 8,000 teachers). These schools project the need for an additional 1,300 math and science teachers.
- Based on an estimate from Community Colleges Chancellor's Office, public community colleges employed about 4,000 math and sciences teachers for the 1996/1997 school year, and approximately 10% additional teachers are needed for these classes (i.e., 400 teachers in full-time equivalent).

- Since there is no definition for "vocational institutions," it is assumed that the number and hours of loaned employees for all California "vocational institutions" would be equivalent to community college levels.
- It was assumed that loaned employees would constitute 1.5% of the schools' demand, and that school districts would issue eminence credentials for high school instruction.
- Total qualified employer expenses for these employees are projected to be over \$2 million (based on average yearly salary of \$50,000 and \$15,000 of additional employer expenses, such as fringe benefits).
- At a 50% tax credit (with the deduction offset considered), the losses in the first fiscal year would be negligible (less than \$50,000) increasing to over \$1 million annually in the following years.

**BOARD POSITION**

Pending.